

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**MATTHEW D. HUFFMAN,**

**Defendant.**

**CASE NO. 8:09CR427**

## TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 31). The government adopted the PSR (Filing No. 30). The government has filed a motion for downward departure (Filing No. 29). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 27 through 31, i.e. each enhancement to the base offense level. The objections are legal rather than factual, and therefore oral argument will be heard at sentencing. The Court specifically notes that it does not contemplate holding an evidentiary hearing.

The Court will also hear the government's motion for downward departure.

IT IS ORDERED:

1. The Court will hear oral argument with respect to the Defendant's legal objections to the PSR (Filing No. 31) at sentencing;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion

challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

5. The Court will hear the government's motion for downward departure (Filing No. 29) at sentencing.

DATED this 17<sup>th</sup> day of May, 2010.

BY THE COURT:

S/ Laurie Smith Camp  
United States District Judge